

**BENJAMIN FRY.**

[To accompany bill H. R. No. 82.]

**MARCH 5, 1840.**

Mr. STORRS, from the Committee on the Judiciary, submitted the following

**REPORT :**

*The Committee on the Judiciary, to whom was referred the petition of Benjamin Fry, report :*

That the said petition was presented to the last Congress, at the second session thereof, when the Committee on the Judiciary to whom it was referred, made the report which is hereto annexed. The committee adopt that report, and recommend the passage of the accompanying bill.

*The Committee on the Judiciary, to whom was referred the petition of Benjamin Fry, report :*

The petitioner, on the 2d of March, 1810, was appointed, by the Secretary of War, agent of fortifications for the harbor of Newport, and accepted the appointment, upon an engagement that he should be allowed a reasonable compensation for his services. Having acted in that capacity for more than a year, he declined the agency on account of the inadequacy of the compensation proposed to be allowed him; and, on the 21st of September, 1811, the Secretary of War induced him to continue his services by the renewed assurances that, when the works in the harbor of Newport should be completed, the subject of his compensation should be duly considered, and such allowance made as should be deemed reasonable. Under these engagements the petitioner continued to act as military agent, at Newport, until the fortifications, then under construction there, were finished—a period of about four years. The claims which he finally made upon the Government having been rejected, he permitted a suit to be brought against him by the United States in the circuit court for the district of Rhode Island; and on the trial, upon a full investigation, the jury returned a verdict that the petitioner was not indebted to the United States; and also found, by their certificate appended to their verdict, under the direction of the court, that the United States were indebted to him in a sum exceeding two thousand nine hundred dollars, exclusive of interest. The petitioner says that his just claims exceed that sum, but their final adjustment has been prevented by other circumstances. Many years ago the petitioner became surety for his son, Henry Fry, a purser in the navy, and

has been subjected upon his bond. A suit was ordered against the principal, Henry Fry, on the 29th of August, 1823, in the northern district of New York, for the sum of \$2,896 64; judgment was recovered against him for a larger sum; he was arrested and imprisoned, and finally discharged by the Secretary of the Treasury. The petitioner says he has submitted to a judgment for this same claim upon the bond which he gave as surety for his son, but that the Government is justly indebted to him in a greater sum, and that it ought to be applied as a set-off against the judgment.

The committee have not inquired into the amount or validity of the petitioner's claims; that may be referred to the appropriate department. For the purpose of ascertaining the sum which may be justly due him, and directing its application upon the judgment, the committee report the accompanying bill.

## REPORT

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The Committee on the Judiciary, to whom was referred the petition of Benjamin Fry, report:

The petitioner, on the 24 of March, 1810, was appointed, by the Secretary of War, agent of fortifications for the harbor of Newport, and accepted the appointment, upon an engagement that he should be allowed a reasonable compensation for his services. Having acted in that capacity for more than a year, he declined the agency on account of the inadequacy of the compensation proposed to be allowed him; and, on the 21st of September, 1811, the Secretary of War induced him to continue his services by the renewed assurances that, when the works in the harbor of Newport should be completed, the subject of his compensation should be duly considered, and such allowance made as should be deemed reasonable. Under these engagements the petitioner continued to act as military agent at Newport, until the fortifications then under construction there were finished—a period of about four years. The claims which he finally made upon the Government having been rejected, he permitted a suit to be brought against him by the United States in the circuit court for the district of Rhode Island; and on the trial, upon a full investigation, the jury returned a verdict that the petitioner was not indebted to the United States; and also found, by their certificate appended to their verdict, under the direction of the court, that the United States were indebted to him in a sum exceeding two thousand nine hundred dollars, exclusive of interest. The petitioner says that his just claims exceed that sum, but that final adjustment has been prevented by other circumstances. Many years ago the petitioner became surety for his son, Henry Fry, a purser in the navy, and